

Union Calendar No. 426

108TH CONGRESS
2D SESSION

H. R. 4661

[Report No. 108-698]

To amend title 18, United States Code, to discourage spyware, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2004

Mr. GOODLATTE (for himself, Ms. LOFGREN, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 23, 2004

Additional sponsor: Mrs. JO ANN DAVIS of Virginia

SEPTEMBER 23, 2004

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on June 23, 2004]

A BILL

To amend title 18, United States Code, to discourage spyware, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Internet Spyware (I-*
 3 *SPY) Prevention Act of 2004”.*

4 **SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVI-**
 5 **TIES RELATING TO COMPUTERS.**

6 (a) *IN GENERAL.*—Chapter 47 of title 18, United
 7 States Code, is amended by inserting after section 1030 the
 8 following:

9 **“§ 1030A. Illicit indirect use of protected computers**

10 “(a) Whoever intentionally accesses a protected com-
 11 puter without authorization, or exceeds authorized access to
 12 a protected computer, by causing a computer program or
 13 code to be copied onto the protected computer, and inten-
 14 tionally uses that program or code in furtherance of another
 15 Federal criminal offense shall be fined under this title or
 16 imprisoned not more than 5 years, or both.

17 “(b) Whoever intentionally accesses a protected com-
 18 puter without authorization, or exceeds authorized access to
 19 a protected computer, by causing a computer program or
 20 code to be copied onto the protected computer, and by means
 21 of that program or code—

22 “(1) intentionally obtains, or transmits to an-
 23 other, personal information with the intent to defraud
 24 or injure a person or cause damage to a protected
 25 computer; or

1 “(2) intentionally impairs the security protec-
2 tion of the protected computer;
3 shall be fined under this title or imprisoned not more than
4 2 years, or both.

5 “(c) No person may bring a civil action under the law
6 of any State if such action is premised in whole or in part
7 upon the defendant’s violating this section. For the purposes
8 of this subsection, the term ‘State’ includes the District of
9 Columbia, Puerto Rico, and any other territory or posses-
10 sion of the United States.

11 “(d) As used in this section—

12 “(1) the terms ‘protected computer’ and ‘exceeds
13 authorized access’ have, respectively, the meanings
14 given those terms in section 1030; and

15 “(2) the term ‘personal information’ means—

16 “(A) a first and last name;

17 “(B) a home or other physical address, in-
18 cluding street name;

19 “(C) an electronic mail address;

20 “(D) a telephone number;

21 “(E) a Social Security number, tax identi-
22 fication number, drivers licence number, pass-
23 port number, or any other government-issued
24 identification number; or

1 “(F) a credit card or bank account number
 2 or any password or access code associated with
 3 a credit card or bank account.”.

4 (b) *CONFORMING AMENDMENT.*—The table of sections
 5 at the beginning of chapter 47 of title 18, United States
 6 Code, is amended by inserting after the item relating to
 7 section 1030 the following new item:

“1030A. Illicit indirect use of protected computers.”.

8 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

9 In addition to any other sums otherwise authorized to
 10 be appropriated for this purpose, there are authorized to
 11 be appropriated for each of fiscal years 2005 through 2008,
 12 the sum of \$10,000,000 to the Attorney General for prosecu-
 13 tions needed to discourage the use of spyware and the prac-
 14 tice commonly called phishing.

15 **SEC. 4. FINDINGS AND SENSE OF CONGRESS CONCERNING**
 16 **THE ENFORCEMENT OF CERTAIN**
 17 **CYBERCRIMES.**

18 (a) *FINDINGS.*—Congress makes the following findings:

19 (1) Software and electronic communications are
 20 increasingly being used by criminals to invade indi-
 21 viduals’ and businesses’ computers without authoriza-
 22 tion.

23 (2) Two particularly egregious types of such
 24 schemes are the use of spyware and phishing scams.

1 (3) *These schemes are often used to obtain per-*
2 *sonal information, such as bank account and credit*
3 *card numbers, which can then be used as a means to*
4 *commit other types of theft.*

5 (4) *In addition to the devastating damage that*
6 *these heinous activities can inflict on individuals and*
7 *businesses, they also undermine the confidence that*
8 *citizens have in using the Internet.*

9 (b) *SENSE OF CONGRESS.—Because of the serious na-*
10 *ture of these offenses, and the Internet’s unique importance*
11 *in the daily lives of citizens and in interstate commerce,*
12 *it is the sense of Congress that the Department of Justice*
13 *should use the amendments made by this Act, and all other*
14 *available tools, vigorously to prosecute those who use*
15 *spyware to commit crimes and those that conduct phishing*
16 *scams.*

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